

STATE LAND DEPARTMENT
STATE OF ARIZONA

.....COMMERCIAL.....LEASE

THIS INDENTURE, made and entered into this..1st....day of.....April.....19..86.....,

by and between the State of Arizona, hereinafter called the lessor, and

.....INSPIRATION CONSOLIDATED COPPER COMPANY.....

of.....Claypool....., State of.....Arizona....., hereinafter called the lessee:

WITNESSETH, that the State Land Commissioner, by virtue of the authority vested in him by law, and in consideration of the application heretofore made, and the covenants and agreements of this lease, hereinafter set forth, has this day leased to the said lessee the State Land, as hereinafter described, subject to any and all indebtedness that may be known to be due or that may be proven to be due hereafter.

TO HAVE AND TO HOLD the same for the period ending the..31st....day....March.....19..96....., and subject to the conditions and reservations elsewhere set forth herein. The lessee agrees to pay as rental therefor an amount to be determined by the State Land Commissioner each year by an appraisal made by him, or his duly authorized agent, as provided by law. The rental so fixed by the State Land Commissioner will be due and payable annually in advance.

That it is further understood and agreed that this lease is issued for the purpose of: Maintenance of water production, storage and distribution facility.

IT IS HEREBY COVENANTED AND AGREED by both parties hereto that this lease is issued subject to all the provisions and requirements thereto, which are found in the various Acts of the Legislature of the State of Arizona, the same as though they were fully set forth herein.

IT IS HEREBY FURTHER COVENANTED AND AGREED that all of the covenants, conditions and agreements, included in this lease, shall be, become and are a part of the lease, the same as though set forth in full over the signatures of the contracting parties hereto.

NOTICE TO ANYONE DEALING WITH THIS DOCUMENT

This document merely authorizes pursuit of its stated purposes; its existence does not constitute a finding by the Land Department that those purposes may be pursued profitably.

IN WITNESS WHEREOF, the Arizona State Land Commissioner, by virtue of the powers vested in him by law, has caused these presents to be executed by said lessor, at Phoenix, Arizona, on the day and year first above written, and the said lessee has hereunto affixed his signature at the place and on the day and year as set forth herein.

STATE OF ARIZONA, LESSOR

By Quinn P. Hies
For the State Land Commissioner

(SEAL)

Signed in the County of Gila, State of Arizona, on the 15th day of
April, 1986

INSPIRATION CONSOLIDATED
COPPER COMPANY

(Sign Here) [Signature]
Vice President and General Manager

(Sign Here)
Lessee

This lease is
issued in duplicate

SUPPLEMENTAL CONDITIONS

(A) The lessee will not sub-let or assign the land herein described or this lease without the written consent of the State Land Commissioner, first obtained, and will, upon the expiration of the lease, surrender peaceable possession of the said land.

(B) The lessee will not permit any loss, nor commit or cause any waste in, to or upon said land; nor cut or remove nor allow to be cut or removed any timber or standing trees that may be upon said land, save and except only such as may be necessary for the improvement of said land, (and then only with the written consent of the State Land Commissioner) or for fuel for the domestic use of said lessee; provided that nothing herein shall be construed to permit the cutting of saw timber for any purpose.

(C) That the lessor excepts and reserves out of the grant hereby made, all oils, gases, coal, ores, limestone, minerals, fossils, and fertilizers of every name and description that may be found in or upon the land herein described, or any part thereof.

(D) The lands herein described are subject to the execution by lessor of drilling permits and leases for the purpose of prospecting for, and the extraction of, oil and/or gases.

(E) That the lessor also reserves the right, as provided by law, to grant to the United States rights-of-way and easements over, across or upon the lands embraced in this lease for canals, reservoirs, dams, power or irrigating plants or works, railroads, tramways, transmission lines or other purposes, for irrigation works in connection with any government reclamation project.

(F) That if at any time after the execution of this lease, it is shown to the satisfaction of the State Land Commissioner, that there has been fraud or collusion upon the part of the lessee to obtain or hold this lease at a less rental than its value, or through such fraud and collusion a former lessee of said land has been allowed to escape payment of the rental due for the use of said land by the former lessee, this lease shall be null and void, at the option of the State Land Commissioner, insofar as it relates to the land affected by said fraud or collusion.

(G) That if at any time after the execution of this lease it is shown to the satisfaction of the State Land Commissioner that the lessee herein has misrepresented, by implication or otherwise, the value of the improvements placed upon the land herein embraced by a former lessee, or any other person or persons and the lessee herein not being the owner of said improvements at the time of the execution of this lease, this lease shall be null and void, at the option of the State Land Commissioner, insofar as it relates to the land upon which said improvements are situated.

(H) If the lessee should fail to pay the agreed rental when due, or fail to keep the covenants and agreements herein set forth, the State Land Commissioner, at his option, may cancel said lease or declare the same forfeited in the manner provided by law.

(I) That the State of Arizona shall be forever wholly absolved from any liability for damages which might result to the lessee herein on account of this lease having been forfeited for nonpayment of rentals due thereunder prior to the expiration of the full time for which it is issued.

(J) It is understood by the lessee that the establishment of any water right, or rights, shall be by and for the State of Arizona, and that no claim thereto shall be made by said lessee; such rights shall attach to and become appurtenant to the said land.

(K) If the lessee desires to place improvement on the land described herein the approval of the State Land Commissioner must first be obtained. That the lessee will, on or before the first day of July of each year during the term herein specified, file with lessor a sworn statement setting forth therein the character of improvements constructed on said demised premises and the actual cash value thereof.

(L) That said lessee shall have the right to remove from said demised premises, at the end of the term herein specified or upon the earlier termination thereof, all buildings, structures or improvements of whatever nature placed by it on said premises. Such right to be exercised within thirty (30) days from the date of the end of such term or earlier termination thereof.

(M) That said lessee shall give lessor thirty (30) days' notice in writing in advance of the abandonment of said premises or termination of these presents.

(Continued)

SUPPLEMENTAL CONDITIONS

(cont.)

(N) The terms, conditions and covenants of this lease are subject to present laws relating to state lands and the rights of both lessor and lessee hereunder are each and all subject to such modifications as may be consistent with such amendments, revisions or repeals of existing laws as may hereafter be made and no provisions of this lease shall create any vested right in the lessee herein.

(O) Any improvements placed on this commercial lease must conform to existing Laws and Ordinances relative to commercial construction and maintenance in the area where this land is located. Approval granted by regulatory authorities will accompany application to place improvements when filed with the State Land Department.

(P) That the lessor also reserves the right to grant rights-of-way and easements over, across, or upon the lands embraced in this lease for public highways, railroads, tramways, telephone, telegraph, transmission lines, pipe lines, irrigation works, flood control, drainage works, logging and other purposes, and this lease is issued subject to all existing rights-of-ways.

(Q) Lessee shall notify the Lessor in writing of the number of any license issued by the State Tax Commission of Arizona to Lessee, any Sub-Lessee, Concessionaire or Assignee, and the name in which issued; Lessee, any Sub-Lessee, Concessionaire or Assignee does hereby consent to the examination of any such returns filed with the State Tax Commission by Lessee, any Sub-Lessee, Concessionaire or Assignee.

(R) Lessee and each Sub-Tenant, Concessionaire or Assignee shall at all times keep and maintain an accounting system and books of accounts and records satisfactory to Lessor. Lessee shall, at all times during business hours, have access to such records at the place where the same are kept, for the purpose of inspecting and auditing the same.

(S) Within 60 days after request is made by Lessor, Lessee shall file with Lessor a statement of the total gross sales made for the period therein specified; unless otherwise directed by Lessor, this report may be made by filing with the Lessor the requested information on the form used by the State Tax Commission of Arizona (Form ST-1, (1-68) at present) "Combined Transaction-Privilege (sales) Tax, Education Excise Tax, and Special Excise Tax for Education Return."

(T) Improvements made on or to the site, without the written consent of the Lessor as required by Arizona Revised Statutes, Section 37-321, shall constitute a breach of this lease and subject this lease to cancellation by Lessor.

(U) All buildings and structures shall be of new construction, and no buildings or structures shall be moved from any other location onto the leased premises without the prior written approval of Lessor.

(V) Gas, electric, power, telephone, water, sewer, cable television and other utility or service lines of every nature whatsoever shall be placed and kept underground (except to the extent, if any, such underground placement may be prohibited by law) unless Lessor otherwise approves in writing.

(W) Prior to the approval of any application to place improvements on the leased premises, the Lessee shall file with Lessor plans and specifications (including but not limited to grading and landscape plans) showing the nature, location, approximate costs, quality of proposed materials, size, area, height, color, shape and design of the proposed improvements; the Lessor may also require a perimeter survey of the leased premises, upon which shall be shown the location of the completed improvements.

If the removal of plants protected under the Arizona Native plant law is necessary to enjoy the privilege of this document, the permittee hereunder must previously acquire the written permission of the Arizona State Land Department and Arizona Commission of Agriculture and Horticulture to remove those plants.

The lease may be amended from time to time by mutual agreement of the parties hereto, provided that the lessor deems such amendment to be in the best interests of the State of Arizona.

The lessee acknowledges that lessee has not been induced to enter into this lease agreement by any promises from the State Land Department or any of its personnel that the premises being leased herein will be offered for sale at any time.

(Continued)

Lessee agrees and understands that all uses of the land not expressly authorized or permitted by this lease are expressly prohibited.

In any action arising out of this lease, the prevailing party is entitled to recover reasonable attorneys' fees in addition to the amount of any judgment, costs and other expenses as determined by the court. In the case of the lessor, reasonable attorneys' fees shall be calculated at the reasonable market value for such services when rendered by private counsel notwithstanding that it is represented by the Arizona Attorney General's Office or other salaried counsel.

The Lessee agrees to indemnify, hold and save Lessor harmless against all loss, damage, liability, expense, costs and charges incident to or resulting in any way from any injuries to person or damage to property caused by or resulting from the use, condition or occupation of the land.

CONDEMNATION

If at any time during the duration of this lease the whole or any part of the leased premises shall be taken by direct sale, lease, institutional taking or acquisition in any manner through condemnation proceedings or otherwise, for any quasi-public or public purpose by any person, private or public corporation, or any governmental agency having authority to exercise the power of eminent domain or condemnation proceedings pursuant to any law, general, special or otherwise, this lease shall expire on the date when the leased property shall be so taken or acquired except that in the event of a partial taking the lease may continue in full force and effect for those lands not taken, however, the lessee shall have no compensable right or interest in the real property being condemned and shall have no compensable right or interest in severance damages which may accrue to the remaining lease property not acquired by condemnation proceedings. Rent paid or to be paid by lessee shall be apportioned as of the date of such taking and rent for any remaining land under the lease after the taking shall be reduced proportionately to the acreage remaining under the lease to the lessee. The State Land Department shall be entitled to and shall receive any and all awards, including severance damage to remaining State lands, that may be made for any eminent domain or condemnation proceedings concerning the land which is the subject of this lease, except that lessee shall have the right to receive any and all awards or payments made for any buildings or other improvements lawfully placed on the subject property by the lessee with the approval of the State Land Department.

Notice of State Authority to Cancel this Contract:

A. The State may cancel any contract, without penalty or further obligation, made after September 4, 1978, by the State or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State or any of its departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

B. The cancellation shall be effective when written notice from the Governor is received by all other parties to the contract unless the notice specifies a later time.

DESCRIPTION OF LAND LEASED CONTAINED IN LEASE SUPPLEMENT ATTACHED HERETO AND
MADE A PART HEREOF.

03	26	86
MO.	DAY	YR.

03	30007	00
KE	LEASE NUMBER.	

[illegible]

OTHER TERMS FOR COMMERCIAL LEASE 03-30007

- 1) The issuance of this lease does not imply that lessee is the owner of the following improvements:

- . Ten-inch buried pipeline, approximately 2,450 feet.
- . 500 feet water well, pump, submersible motor, power line, 500 feet 6-inch pipeline.
- . 500 foot water well (standby).
- . Access roads to pump station.
- . 800 foot water well, pump, submersible motor, power line, 500 feet 6-inch pipeline.
- . 121,000 gallon sump tank, valves, fittings and foundation.
- . Booster pump station including building, mechanical and electrical equipment.

The lessee is, however, authorized to use the aforementioned improvements in conjunction with its existing state mineral leases in this section, i.e., M-588 and M-643.

No water may be extracted from any well on the leased premises unless purchased at public auction pursuant to law and the regulations of the State Land Department.

In the event lessee is not the successful bidder at any public auction sale of natural products, water, to be produced from a well or wells on the subject leased premises, then this lease shall ipso facto terminate as of the date of such natural product sale. Reimbursement for improvements on this lease, if any, shall be made as provided by law and the regulations of the State Land Department.

- 2) In any action arising out of this lease, the prevailing party is entitled to recover reasonable attorneys' fees in addition to the amount of any judgment, costs and other expenses as determined by the court. In the case of the lessor, reasonable attorneys' fees shall be calculated at the reasonable market value for such services when rendered by private counsel, notwithstanding that it is represented by the Arizona Attorney General's Office or other salaried counsel.
- 3) The term of the lease shall be for ten (10) years.
- 4) "CPI" shall mean the Consumer Price Index, U.S. City Average of all Urban Consumers--All Items (1967 equals 100) for the pertinent month, issued by the Bureau of Labor Statistics of the U.S. Department of Labor. If the CPI shall hereafter be converted to a different standard reference base or otherwise revised, adjustments of rent based upon the CPI shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics, or if said Bureau shall not publish the same, then with the use of such conversion factor, formula or table as may be published by any nationally recognized publisher of similar statistical information. If the CPI shall cease to be published, lessor shall select a reasonable substitute.
- 5) Lessee shall pay rent to lessor for the use and occupancy of the premises during the term of this lease without offset or deduction except as provided hereafter and, without notice or demand, at the times and in the

amounts as follows: The annual rent shall be due every year on the anniversary of the commencement date. Rent for the first year shall be \$2,543.

- 6) The base rent shall be adjusted each lease year by the Consumer Price Index but shall never be less than the amount due for the previous lease year's rent. The land shall be reappraised at the end of the fifth year.
- 7) Lessee shall pay a penalty of five percent (5%) of any amount delinquent, and shall pay daily interest on delinquent amount plus penalty for the rate by the Arizona State Treasurer, according to law.
- 8) Lessee shall make Application to Place Improvements on the leased premises and have Department approval of such application prior to any construction activities.
- 9) A minimum charge for groundwater used in the conduct of lessee's business will be assessed each year. This charge will be subject to annual reappraisal.
- 10) Lessee agrees to pay the Department for all water withdrawn over the minimum amount.
- 11) Monthly reports of water must be submitted to the Department on standard forms supplied by the Department.
- 12) Lessee is required to measure withdrawals if groundwater is pumped from a non-exempt well. However, if well has been granted a Type 2 Grandfathered Right or a groundwater withdrawal permit for ten acre feet or less, there is no requirement to measure withdrawals.
- 13) The Arizona Department of Water Resources requires an annual report of groundwater pumped from non-exempt wells within Active Management Areas and Irrigation Non-Expansion Areas. The annual report and any withdrawal fee should be submitted to the Land Department in a timely manner, as set by the Department.
- 14) If groundwater is pumped off State land or is used for purpose(s) different from the lease, then lessee must immediately notify the Department to hold a public auction sale for the water.
- 15) Department personnel will have access to well(s) during reasonable hours.
- 16) Insurance and Indemnity:

16.1 Lessor shall not be liable at any time for any loss, damage or injury to the property or person of any person at any time, occasioned by or arising out of (i) any act, activity or omission of lessee, its agents, servants, employees, sublessees, concessionaires, or of anyone holding under permittee; and (ii) the occupancy or use of the leased premises or any part thereof by or under lessee.

16.2 Notwithstanding anything to the contrary contained herein and irrespective of any insurance carried by lessee for the benefit of lessor under the provisions of this Article, permittee expressly agrees to protect and does hereby indemnify and hold lessor and the premises harmless from any and all damages or liabilities at any time occasioned by or arising out

of (i) any act, activity or omission of lessee, its agents, servants, employees, sublessees, concessionaires, or of anyone holding under lessee; (ii) the occupancy or use of the premises or any part thereof by or under lessee; and (iii) any wrongful or negligent act, activity or omission of lessor, its agents, servants or employees, it being the specific intent of the parties to indemnify the State of Arizona for any and all losses, claims, judgments and attorney's fees arising out of the contract even if they result from lessor's own negligence or wrongdoing.

16.3 Lessee, at its expense, shall at all times during the term and any extension maintain in full force a policy or policies of comprehensive liability insurance, including property damage, written by one or more responsible insurance companies licensed to do business in the State of Arizona, which insure lessee and lessor against liability for injury to persons and property and death of any person or persons occurring in, on or about the premises, or arising out of lessee's maintenance, use and occupancy thereof. All public liability and personal property damage policies shall contain a provision that lessor, named as an additional insured, shall be entitled to recovery under the policies for any loss occasioned to it, its servants, agents and employees by reason of the negligence or wrongdoing of lessee, its servants, agents, employees, sublessees, concessionaires. Further, the policies shall provide that their coverage is primary over any other insurance coverage available to the lessor, its servants, agents and employees. All policies of insurance delivered to lessor must contain a provision that the company writing the policy shall give to lessor thirty (30) days notice in writing in advance of any cancellation or lapse, or the effective date of any reduction in the amounts of insurance.

16.4 The insurance shall afford protection to the limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to injury to or death of one person; One Million Dollars (\$1,000,000.00) in respect of any one occurrence; and One Hundred Thousand Dollars (\$100,000.00) with respect to property damage.

16.5 Notwithstanding anything to the contrary in this Article, lessee's obligations to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance maintained by lessee, provided, however, that the coverage afforded lessor will not be reduced by reason of the use of such blanket policy of insurance.

ASSIGNMENT OF LEASE

Phoenix, Arizona

The application of

for permission to assign Lease No. and the application of

for the assumption of said Lease, having been duly considered this day of 19

and without waiver of State rights which may exist against the lease assigned, and with this consent not to be construed as initiating any new rights in assignee of lease, consent is hereby given for the assignment applied for and it is ordered that the said Lease No. and all rights thereunder be and are hereby transferred to the said

By

For the State Land Commissioner

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